

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Zettel Analyst: Marion Mann DeJong Bill Number: AB 110

Related Bills: See Legislative History Telephone: 845-6979 Amended Date: 08/20/2001

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Accuracy-Related Penalty Does Not Apply To Amounts Attributable To Teacher Retention Credit

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended May 21, 2001.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☒ DEPARTMENT POSITION CHANGED TO SUPPORT.
- ☐ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ . STILL APPLIES.
- ☐ OTHER - See comments below.

SUMMARY

This bill would prevent the Franchise Tax Board (FTB) from imposing the accuracy-related penalty on taxpayers who incorrectly claim the teacher retention credit for the 2000 taxable year.

SUMMARY OF AMENDMENTS

The August 20, 2001, amendments made the following changes:

- ?? Restructured the bill by deleting the provision that was added to the teacher retention credit to prevent FTB from penalizing a taxpayer for incorrectly claiming the credit and adding a new provision regarding the accuracy-related penalty summarized above. This was done since the provision relates to the imposition of a penalty.
- ?? Removed the language requiring FTB to assess tax and interest if the credit were claimed in error since FTB already has authority to assess additional tax and interest when errors are made on the tax return.

The August 20, 2001, amendments resolved the department's implementation concerns by more accurately reflecting the author's intent to prevent the imposition of the accuracy-related penalty that could potentially be imposed during the audit process.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

08/24/01

The "Position," "This Bill," and "Implementation Concerns" discussions from the department's prior analyses have been revised to reflect the August 20, 2001, amendments and recent Franchise Tax Board action. The remainder of the department's analysis of the bill as amended May 2, 2001, still applies. This analysis replaces the analysis of the bill as amended May 21, 2001.

POSITION

Support.

At its meeting of June 27, 2001, the Franchise Tax Board voted 2-0 to support AB 110 as amended May 21, 2001, with Annette Porini, on behalf of Member B. Timothy Gage, abstaining.

THIS BILL

In the event that FTB determines that a taxpayer is ineligible for the teacher retention credit for the 2000 taxable year, this bill would prevent FTB from assessing the accuracy-related penalty.

IMPLEMENTATION CONSIDERATIONS

This bill would not affect the department's programs and operations since it would not change department practice. Currently, if upon audit, the taxpayer were found to be ineligible for the teacher retention credit, department staff would issue a proposed assessment for the additional tax due (credit amount) plus interest. Except in the case of fraud, it is unlikely that FTB would assess any penalties on a taxpayer for incorrectly claiming the credit.

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